

FILED: September 7, 2021

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

No. 21-1608  
(1:18-cv-00461-SAG)

---

CLAYTON R. HULBERT, as personal representative of the Estate of Jeffrey W. Hulbert; KEVIN HULBERT; MARYLAND SHALL ISSUE, INC., for itself and its members

Plaintiffs - Appellees

v.

BRIAN T. POPE, Sgt.

Defendant - Appellant

and

MICHAEL WILSON, Colonel

Defendant

---

O R D E R

---

This matter is before this court as an interlocutory appeal of the district court's order dated April 22, 2021 granting in part and denying in part defendant-appellant's motion for summary judgment. On May 7, 2021, defendant-appellant moved in the district court for reconsideration. While that motion was pending,

defendant-appellant filed a notice of interlocutory appeal in this court.

On July 19, 2021, defendant-appellant moved to suspend briefing in this court pending resolution of his motion for reconsideration in the district court. By order dated August 18, 2021, this court ordered the parties to file memoranda addressing (1) whether this court has jurisdiction to proceed on appeal while the motion for reconsideration is pending in the district court; and (2) whether the district court has jurisdiction to rule on the motion for reconsideration while the appeal is pending in this court.

The parties submitted their memoranda on September 1, 2021, in which they appear to agree that the district court has jurisdiction to rule on the motion for reconsideration although they disagree regarding this court's jurisdiction.

For reasons appearing to the court, this case is remanded for the limited purpose of allowing the district court to rule on the pending motion for reconsideration. Appellant is directed to file a written status report with this court on or before November 8, 2021 and every 30 days thereafter pending further order of this court.

The clerk shall forward a copy of this order to the clerk of the district court.

For the Court--By Direction

/s/ Patricia S. Connor, Clerk